

**ADDENDUM TO THE CHIPPEWA COUNTY OPERATIONAL AGREEMENT  
BETWEEN DNR & CHIPPEWA COUNTY LAND CONSERVATION DEPARTMENT  
FOR THE  
ADMINISTRATION AND IMPLEMENTATION OF AGRICULTURAL  
NONPOINT POLLUTION PERFORMANCE STANDARDS AND PROHIBITIONS  
UNDER NR151 AND NR243**

**Table of Contents**

<u>Section</u>	<u>Page Number</u>
<b><u>Memorandum of Understanding</u></b>	
Purpose	2
I. Component 1: Plan the Implementation Approach	4
II. Component 2: Define Level of Agencies' Commitment to NR151 Workload	6
III. Component 3: Conduct Information and Education Activities	6
IV. Component 4a: Determine Current Compliance through Records Inventory	8
Component 4b: Determine Compliance through On-Site Evaluation	10
V. Component 5: Prepare Report and Notify Landowners of Compliance Status	12
VI. Component 6a: Secure Funding and Technical Assistance	14
Component 6b: Issue NR151 Notice	16
VII. Component 7: Administer Funding and Technical Assistance/Reevaluate Parcel	17
VIII. Component 8: Enforcement	19
IX. Component 9: Ongoing Compliance Monitoring	21
X. Component 10: Annual Reporting	22

**Appendix A. Working with Landowners to Implement  
Agricultural Performance Standards and Prohibitions Under NR 151**

**Overview and Flow Chart**

Letter Type A  
Letter Type B  
Letter Type C  
Letter Type D  
Letter Type E

## **Purpose**

This memorandum of understanding is an addendum to a multi-agency operational agreement that exist between the Chippewa County Land Conservation Committee, WI Department of Natural Resources, WI Department of Agriculture, Trade and Consumer Protection, Chippewa County Extension and USDA Natural Resources Conservation Service (date).

This MOU has been developed by the Chippewa County Land Conservation Committee (LCC) and the Wisconsin Department of Natural Resources (DNR) to clarify their respective roles and responsibilities as needed to:

- Implement and enforce agricultural nonpoint pollution performance standards and prohibitions established in ch. NR 151, Wis. Adm. Code.
- Implement ch. NR 243, Wis. Adm. Code as it applies to the permitting of livestock operations and the investigation of livestock facility complaints.
- Systematically phase out the Duncan Creek Priority Watershed Project, initiated and implemented under ch. NR 120, Wis. Adm. Code.

This agreement defines the commitment of each party to conduct administrative tasks that have been defined by Wisconsin conservation agencies as standardized components of a program delivery system. The standardized components are in a guidance document titled Implementation Strategy for NR 151 Agricultural Performance Standards and Prohibitions<sup>1</sup> (hereafter referred to as the State-wide Implementation Strategy).

Specifically, this agreement clarifies how the DNR and the County will:

- Incorporate the State-wide Implementation Strategy into routine agency operations.
- Systematically evaluate and define the level of agency commitment to the NR 151 and NR 243 workload using a county-sponsored annual needs assessment and interagency work planning process.
- Conduct information and education activities.
- Systematically select and evaluate parcels to determine compliance with standards and prohibitions.
- Prepare compliance reports and notify landowners of compliance status.
- Provide technical assistance and cost-sharing funding as needed to allow landowners to meet performance standards and prohibitions.
- Issue notice letters under NR 151.09 and NR 151.095 as appropriate.
- Monitor compliance.
- Conduct enforcement activities.
- Develop annual reports.

<sup>1</sup> This document was prepared jointly by WI Dept. of Natural Resources, WI Dept. of Agriculture, Trade, and Consumer Protection, the WI Land and Water Conservation Association, and the WI Association of Land Conservation Employees (April, 2002). It has been approved by the Wisconsin Land and Water Conservation Board as Appendix E to the Land and Water Resources Management Plan Guidelines. The document can be found at <http://dnr.wi.gov/org/water/wm/nps/rules/NR151strategy.htm>.

**A. As a basis for this agreement, the parties agree:**

1. State statutes and associated administrative rules establish the requirement that agricultural performance standards and prohibitions, established in NR151, must be implemented. (ss. 92.07, 92.10, 92.105, 92.14 and 281.16, Wis. Stats., chs. NR 151 and ATCP 50, Wis. Adm. Code.)
2. The responsibility and authority to administer and implement the agricultural performance standards and prohibitions has been delegated through State statutes and administrative rules to DNR, DATCP, and local municipalities, including the County Land Conservation Committees.
3. DNR is the state agency responsible for administering NR 243, and for implementing NR 151.09, and NR 151.095. Notes in NR 151.09(2) and NR 151.095(2) state the DNR's intent to rely on County Land Conservation Committees to fully implement performance standards and prohibitions and to develop intergovernmental agreements to guide implementation.
4. DATCP is the lead state agency responsible for administering staffing grants under ATCP 50.26 for base level conservation, priority watershed activities and performance standards & prohibitions compliance.
5. DNR has authority, but limited funding, to support staff under Targeted Runoff Management grants.
6. The Chippewa County Land Conservation Committee employs qualified staff with the necessary contracting, planning, and engineering expertise needed to implement the NR151 standards.
7. Implementation of agricultural nonpoint standards and prohibitions is contingent upon the availability of trained technical staff and public cost share. Without funding and staff support for contracting and technical assistance, few, if any, contracts will be executed, or conservation practices constructed to implement performance standards and prohibitions.
8. Chippewa County and the DNR share common goals and objectives toward water resources management and nonpoint source pollution control.
9. Chippewa County and DNR have an existing operational agreement that encourages interagency cooperation to pursue common resource management objectives.
10. To optimize use of available State and County staff and program funding, it is in the mutual interest of the County and DNR to clarify program responsibilities and to make commitments necessary to implement State law and administrative rules.
11. This agreement will be reviewed annually. Either party may cancel its agreement with 90 days written notice.

**I. Component 1: Plan the Implementation Approach**

**A. The parties agree:**

1. The State-wide Implementation Strategy provides a structural framework that can be used to discuss and plan how the parties will cooperate to implement the agricultural performance standards and prohibitions.
2. This memorandum of understanding and the County Land and Water Plan can be used as the means to document procedures for implementing NR 151.
3. Guidance prepared by DNR and incorporated as an appendix to this agreement (*Working with Landowners to Implement Agricultural Performance Standards & Prohibitions Under NR 151*), is useful for making formal correspondence with landowners concerning compliance issues.
4. The agricultural performance standards and prohibitions are designed to achieve water quality standards by limiting nonpoint source water pollution.
5. NR 151.004 contains a process for developing targeted performance standards where implementation of statewide performance standards and prohibitions may not be sufficient to meet water quality standards.
6. Sections NR151.09, NR 151.095, ATCP 50.04 and ATCP 50.08 require agricultural landowners and operators to meet agricultural nonpoint performance standards and manure management prohibitions. These requirements are contingent upon sufficient cost sharing for existing facilities and practices.

**B. Chippewa County will:**

1. Use this memorandum of understanding to coordinate implementation of agricultural performance standards and prohibitions.
2. Implement select portions of the administrative rules and components of the State-wide Implementation Strategy, as defined in this agreement.
3. Revise the County Land and Water Resource Management Plan by August 1, 2004, and include a comprehensive strategy to ensure compliance with the performance standards and prohibitions required by NR151.
4. Focus NR 151 implementation activities on new and expanding cropland practices and livestock facilities.
5. Cooperate with DNR to identify priority areas where the county may apply for funding under the Targeted Runoff Management Program to alleviate violations of performance standards and prohibitions that result in significant pollutant loadings or impacts to waters of the State.

6. Cooperate with DNR in identifying the need for targeted performance standards.

**C. DNR will:**

1. Use this memorandum of understanding to coordinate implementation of agricultural performance standards and prohibitions.
2. Implement select portions of the administrative rules and components of the State-wide Implementation Strategy, as defined in this agreement.
3. Assign an agency representative to actively participate in the County Land and Water Resource Management planning process and provide input into the development of the County strategy to implement agricultural nonpoint performance standards and prohibitions.
4. Target its efforts, including education, evaluation, issuing notification letters under NR 151.09 and NR 15.095, and enforcement, toward:
  - a. Areas draining to Outstanding and Exceptional Resource Waters. In doing so, the Department's efforts will be directed toward *achieving* compliance for new and expanding cropland practices and livestock facilities and at *maintaining* compliance for all existing and new practices and facilities.
  - b. Areas draining to waters on the federal list of impaired water bodies (303d list), waters not meeting water quality standards or designated uses and source water protection areas. In doing do, the Department's efforts will be directed toward *achieving and maintaining* compliance for all existing and new practices and facilities.
5. Work jointly with Chippewa County to set mutual priorities for implementing agricultural performance standards and prohibitions.
6. Provide Chippewa County with guidance needed to fulfill its agreed-upon roles and responsibilities to implement portions of NR 151.
7. Conduct high priority implementation activities as needed to supplement county roles and responsibilities agreed upon in this agreement.
8. Discuss with DATCP ways in which the staffing funds from state agencies may be adjusted to categorize local county land conservation department efforts, and provide grant incentives, based upon the scope of implementation responsibilities assumed.
9. Pursue mechanisms to provide some level of county staff funding for implementing Targeted Runoff Management projects.
10. When appropriate, identify the need for targeted performance standards.

## **II. Component 2: Define Level of Agencies' Commitment to NR151 Workload**

### **A. The parties agree:**

1. There must be a mutual understanding of each agency's responsibilities and level of commitment in carrying out implementation of agricultural performance standards and prohibitions, including implementation and enforcement activities identified under NR151.09 and NR151.095.
2. The extent of each agency's commitment is dependent upon the availability of public funds and agency priorities and, therefore, may be expected to change through time.

### **B. Chippewa County will:**

1. Sponsor an annual interagency work planning session, following procedures in the interagency operational agreement. Through this process, the County will formally solicit, document, and record the level of agency and county commitment towards carrying out the NR151 workload, under Components 3-10 of this agreement.

*Note: Through this process, the County will seek to determine the number of full-time staff positions, (FTE), assigned by each agency (County, State, and Federal), the technical qualifications of each staff position assigned, activities to be conducted by the assigned position, and the financial resources to be committed.*

### **C. DNR will:**

1. Assign an agency representative and actively participate in the County LCC's annual interagency work planning session.
2. Use this work planning process, in conjunction with the DNR work planning process, to make staff commitments toward implementation of NR 151 workload for the upcoming year.
3. Identify site specific projects determined by the agency to be priorities, for onsite farm evaluations, cost-share funding, issuing notification letters under NR 151.09 and NR 151.095, and enforcement action when appropriate.

## **III. Component 3: Conduct Information and Education Activities**

### **A. The parties agree:**

1. That a structured information and educational program is a critical component of an agricultural nonpoint pollution control program.
2. An effective program will:
  - a. Educate landowners about the Wisconsin agricultural performance standards and prohibitions, applicable conservation practices, and cost-share grant opportunities.
  - b. Promote implementation of conservation practices necessary to meet performance standards and prohibitions.

- c. Inform landowners about procedures and agency roles to be used statewide and locally for ensuring compliance with the performance standards and prohibitions.
- d. Establish expectations for compliance and consequences for non-compliance.
- e. Define target audiences, educational messages for each target audience, methods and activities to deliver the educational message to each target audience, anticipated unit costs for each activity, a proposed regional or statewide budget and a proposed implementation schedule.

**B. Chippewa County will:**

- 1. Provide structured input into the development of a state-wide and regional information and education program to be designed by DNR to support and augment NR151 implementation efforts.
- 2. Before August 1, 2004, using funding allocated through the Duncan Creek Priority Watershed Project, develop a local information and education plan to support NR 151 implementation as outlined in this agreement.
- 3. Within the limits of State funding allocated, implement information and education activities as scheduled through the County's LCC's annual work plan and financed through the County budget process.

**C. DNR will:**

- 1. Develop a statewide information and education program, activity schedule and budget to support state and county efforts to implement NR 151.
- 2. Work with University of Wisconsin-Extension and DATCP to identify and develop information and education materials and activities needed on a statewide basis, and to make the materials accessible to Chippewa County for use and dissemination.
- 3. Provide input into the planning of the Chippewa County information and education program.
- 4. Participate in work planning for the Lower Chippewa Basin educator to assure that time is allocated to information and education activities (planning, materials development, dissemination) needed to implement NR 151 in Chippewa County. Before January 1, 2005, develop a structured work plan for a regional information and education project.
- 5. Assist Chippewa County and the basin educator, where possible, with implementation of the I&E program.

#### **IV. Component 4a: Determine Current Compliance through Records Inventory**

##### **A. The parties agree:**

1. Many crop and livestock producers in Chippewa County, working independently or through public agencies, have adopted conservation practices as part of routine operations.
2. Since 1990, a significant public investment has been made (through the WI Nonpoint Source Water Pollution Abatement Program, the WI Soil and Water Resource Management Program, and the Chippewa County Land Conservation Program) to assist owners of croplands and livestock facilities to install best management practices to control agricultural nonpoint source pollution.
3. As a result of this conservation work, there are many croplands and livestock facilities that fully or partially comply with the agricultural performance standards and prohibitions.
4. Sections NR151.09(3)(b) and NR 151.095(4)(b) require existing cropland practices and livestock facilities that achieve compliance with performance standards and prohibitions to remain in compliance regardless of public cost share.
5. Sections NR 151.09(3)(d) and NR 151.095(4)(d) require new cropland practices and livestock facilities to comply with performance standards and prohibitions regardless of cost share.
6. To establish a baseline for program implementation, it is in the public's interest that documentation be made of the location of cropland practices and livestock facilities that were in compliance as of October 1, 2002, and to inform the landowners, in writing, of the compliance determination and the requirements to maintain compliance.
7. To date, there has been no effort to conduct a systematic review of public records to document the location of cropland practices and livestock facilities that were in existence as of the effective date of the rule, or to determine their compliance status.
8. Without an effort to review public records and determine compliance, cropland owners and livestock operators will not be aware of their current compliance status or their obligations to meet or maintain the agricultural nonpoint performance standards and prohibitions, either with or without cost share.
9. State cost-share agreements, subject to contractual obligations of active operation and maintenance plans on or after October 1, 2002, can be used to document the extent of current compliance achieved through previous public investments.
10. Chippewa County will use the tax parcel as the basic geographic unit for evaluating and reporting compliance. Where a tax parcel contains more than one livestock facility or cropland practice, the evaluation and reporting system will contain information to distinguish between facilities and practices based on whether they are new, existing, in compliance and out of compliance.



**B. Chippewa County will:**

1. Before July 1, 2004, use State-funded priority watershed staff to compile a list of current State cost-share agreements, subject to contractual obligations of an active operation and maintenance plan in effect on or after October 1, 2002.
2. Before July 1, 2005 use State funded priority watershed staff to review these state cost share agreements and associated records to determine:
  - a. The status of contract completion, including: the installation of conservation practices; required operation and maintenance periods; the implementation of associated operation and maintenance plans.
  - b. The date of the last site visit conducted to verify or confirm compliance with terms of existing conservation contracts.
3. From the records review, make a preliminary determination as to the location of cropland practices and livestock facilities that were clearly in compliance with all performance standards and prohibitions applicable to the parcel.
4. From the records review, identify the location of parcels and operations that have records that are inconclusive and warrant an on-site evaluation to determine compliance under Component 4b.

*Note: The County will evaluate whole tax parcels, as maintained on the Chippewa County Real Property Tax Listing, to determine the extent of compliance with each agricultural nonpoint performance standard and prohibition which may apply to that parcel.*

5. Document results of the compliance determination on standardized evaluation forms and compliance status report formats developed by the County.

**C. DNR will:**

1. Review Chippewa County records evaluation forms and compliance status report forms for consistency with status determination and notification requirements under NR 151.09 and NR 151.095.
2. Provide information to Chippewa County from the DNR CAOS database as it pertains to any Duncan Creek Priority Watershed and targeted runoff management project cost-share contracts.
3. With regard to large scale livestock operations permitted under chapter NR 243:
  - a. Compile records of existing WPDES permits for Concentrated Animal Feeding Operations (CAFO) and evaluate these records to determine compliance with NR 151 agricultural performance standards and prohibitions. (Note: As of March 31, 2004 DNR has issued WPDES permits to Jenio-Turkey Store and Five Star Dairy)
  - b. When coverage applies, incorporate into WPDES permits standards that equal or exceed the requirements of NR151. (Note: The WPDES permit does not cover cropped fields)

- where manure is not applied)
- c. Follow the compliance strategy and provide the County with copies of inspection check sheets and inspection letters sent to the facility. (Note: This strategy calls for two inspections every five years.)
- d. Provide the County with copies of portions of the WPDES permit application that describe a facility's manure storage, animal yards, and locations.
- e. Provide the County with copies of the manure management plan and its amendments that describe field locations, restrictions, manure application rates, and verification that fields meet "T".

*Note: The manure management prohibitions are contained in the permit, nutrient management through the manure management plan requires meeting N&P recommendation of UW Ext., meeting "T" is shown by 590 farm plan or some other approved equivalent, clean water diversions are met with the "zero" discharge up to the 25 year storm. Manure storage is met with requirement of NRCS standard and review of plans before construction and required monitoring by operator.*

#### **Component 4b: Determine Compliance through On-Site Evaluation**

##### **A. The parties agree:**

1. On-site evaluations are often necessary to document current resource conditions and current management practices, as a basis for determining compliance.
2. The accuracy of on-site evaluations will be enhanced if formal evaluation procedures and protocol are established, and standardized evaluation forms are adopted.
3. Greater consistency in conducting on-site evaluations can be achieved if a structured training program is established to educate staff about the standards, evaluation procedures, and requirements for program documentation.
4. The protocol and process for responding to public animal waste complaints, registered under NR243, has been previously established and is routinely administered through the cooperation of the DNR and the LCC (DNR/DATCP MOU, 1987).
5. New or expanding livestock facilities subject to regulations under NR 243 or the Chippewa County Manure Storage Ordinance should be evaluated for compliance with performance standards and prohibitions. The evaluation should be conducted prior to issuance of the state or county permits.

##### **B. Chippewa County will:**

1. Conduct on-site evaluations for whole tax parcels, as maintained on the Chippewa County Real Property Tax Listing, to determine the extent of compliance with each agricultural nonpoint performance standard and prohibition which may apply to that parcel.
2. Before December 31, 2005, as part of the Duncan Creek Priority Watershed close-out schedule, conduct on-site evaluations to complete a baseline inventory of compliance for all cost-share agreement holders.

3. Beginning June 1, 2004, within the limits of staff funding allocated by the State, systematically conduct onsite compliance evaluations for livestock facilities and cropping practices that meet any of the following criteria:
  - a. Apply for State cost-share funds, administered by Chippewa County
  - b. Request on-site evaluations through the Chippewa County Voluntary Farm Evaluation and Certification Program
  - c. Seek permits issued through the Chippewa County Animal Waste Storage Ordinance.
  - d. Are subject to a public complaint, submitted to the County or DNR .
4. Beginning June 1, 2004, ((date) NR243 M.O.U. protocol) systematically respond to public complaints, which allege that there is violation of state agricultural nonpoint performance standards and prohibitions, or which allege that there is an agricultural nonpoint discharge that may have an impact on waters of the state.
5. Within limits of State funding, attempt to conduct and document a minimum of 10-15 on-site livestock evaluations per year, and a minimum of 30-300 onsite cropland tax parcel evaluations per year.
6. Consult with DNR concerning non-routine evaluations, including evaluations of livestock facilities that are expanding and require DNR WPDES or county permits.

**C. DNR will:**

1. As part of the County LCC's annual work planning process have the opportunity to provide:
  - a. The location of livestock facilities and cropland parcels where, if standards are not implemented, there is a high potential for nonpoint discharge which may result in a significant impact to waters of the state.
  - b. Correspondence to the County requesting that an onsite evaluation be conducted, and a report be generated, to determine and to document the extent of current compliance.
2. Provide a structured training framework and training opportunities to educate DNR and County staff about the agricultural performance standards and prohibitions, procedures for making compliance determinations, and policy aspects of program administration.
3. Assist in developing and administering training about the use of management practices to achieve and maintain compliance with performance standards and prohibitions.
4. Assist in the identification of environmental models, site review checklists, and other assessment tools used to evaluate compliance. Assist in providing training.
5. Develop and provide standardized example evaluation forms and a companion electronic form/software application.
6. Provide assistance to the county in making status determinations for high priority or potentially controversial situations, such as those that may require notification (See

Attachment A, Letter Types C and D), lead to enforcement actions or may potentially be handled by the DNR under NR 243.

7. Establish and implement a quality assurance program to establish and maintain a predefined standard of administrative performance.
8. Beginning June 1, 2004, (using 1987 NR243 M.O.U. protocol) systematically respond to public complaints registered under NR243, which allege that there is violation of state agricultural nonpoint performance standards and prohibitions, or which allege that there is an agricultural nonpoint discharge that may have an impact on waters of the state.
9. Consult with Chippewa County concerning non-routine evaluations, including evaluations of livestock facilities that are expanding and require DNR WPDES or county permits.

**V. Component 5: Prepare Report and Notify Landowners of Compliance Status**

**A. The parties agree:**

1. To be valid, the results of a record review and/or on-site compliance evaluation must be documented and be based upon confirmed facts.
2. A standardized report format will allow for the systematic collection and reporting of evaluation results and will provide consistency through time.
3. A local process, independent of a formal administrative appeal under chapter 227, Wis. Stats., can be used to provide for a structured review of any local decision pertaining to an initial finding of compliance or other decision involving the interpretation of NR 151 or ATP 50.
4. Farm evaluation forms, compliance status reports and associated correspondence are public records that should be retained by a custodial agency.
5. The compliance status report is a document that can be used to inform the landowner about the compliance status of his/her operation, seek confirmation of information used to determine current compliance, and, if necessary, resolve disagreements regarding compliance status.
6. The information included in a compliance status report provides important baseline information needed to determine and to secure and allocate funding and technical assistance to address on-farm conservation needs.
7. A geographic data base and record keeping system is necessary to provide ready access to compliance reports completed over time.

*Note: The record-keeping system is the basis for a detailed accounting of the compliance history for each parcel evaluated. Information required for each tax parcel includes: location; receiving water; status (new; existing; in compliance; not in compliance) for each performance standard and prohibition applicable to the parcel; cost-share requirements; cost-share availability; notification history; compliance deadline; best management practice application & certification history; compliance history.*

8. Mapping can be used to show the cumulative location of cropland parcels and livestock facilities that have been evaluated, and the associated compliance status of these lands and facilities.

**B. Chippewa County will:**

1. Establish a local process to provide for reconsideration of local administrative decisions regarding findings of compliance as established in a compliance report. The LCC will be the administrative body that reconsiders decisions made by County staff in implementing NR 151.
2. Prepare a compliance status report to document the results of each record review and on-site evaluation conducted for a livestock facility or cropping practice. The compliance status report will include the following information:
  - a. Parcel status (new versus existing)
  - b. The current compliance status of individual tax parcels with reference to each of the performance standards and prohibitions.
  - c. Corrective measure options and rough cost estimates to comply with each of the performance standards and prohibitions for which a parcel is not in compliance.
  - d. Status of eligibility (costs eligible) for public cost sharing.
  - e. Grant funding sources and technical assistance available from Federal, State, and local sources, and third party service providers.
  - f. An explanation of conditions that apply if public cost share funds are used.
  - g. Signature lines indicating landowner agreement or disagreement with report findings.
  - h. The purpose of the report, the implications for achieving and maintaining compliance.
  - i. Process and procedures to discuss evaluation results with county and or state.
  - j. If appropriate, a copy of performance standards and prohibitions and technical design standards.
3. Provide a copy of the compliance status report and review it with each landowner to explain the content of the report and procedures available to contest the findings or request a reevaluation. In doing so, the County will use the administrative process outlined in the flowchart included in Appendix A. This includes preparing, signing and delivering to landowners Letter Types A and B from Appendix A.
4. In circumstances where the facts and findings of the compliance status report are not agreed to by the landowner, gather additional information and/or provide the landowner with written procedures and a timeframe to pursue reconsideration of local decisions.
5. In circumstances where livestock facilities or cropping practices are not in compliance, assess the relative pollution threat associated with the noncompliance and make a determination regarding the allocation of staff and financial resources under Section 6 of this agreement.
6. Keep and maintain public records, as the custodial authority, following requirements of the Wisconsin Open Records Law.
7. Develop and maintain a geographically-based recordkeeping system and database to record the location where farm evaluations have been conducted and where compliance status reports

have been issued. At a minimum, the database will contain the following information:

- a. Location of parcel(s) evaluated as included in the compliance status report, recorded by Town, Range, Section and  $\frac{1}{4}$   $\frac{1}{4}$  section.
  - b. Watershed where parcel is located
  - c. Owner of land at time of notification.
  - d. Date of compliance report.
  - e. Date compliance report mailed to landowner.
  - f. End date for landowner request of status report appeal or reconsideration.
  - g. Date of request for reconsideration of compliance report (if submitted).
  - h. Date letter mailed to landowner.
8. Upon completion of the process, record the compliance status of each livestock facility and cropping practice on the Chippewa County Track Index. The public documents to be formally recorded will be restricted to the following:
- a. Public cost-share and stipulation agreements.
  - b. Letters of compliance issued to document that all standards and prohibitions specified under NR151 are met (Status Letter B).
  - c. Letters of compliance issued to document that select standards and prohibitions specified on a cost-share or stipulation agreement are met (Status Letter E).
9. Develop and maintain a GIS web-based index map showing:
- a. The location of all tax parcels where compliance reports have been issued.
  - b. The locations where letters (Letter Type A, B) have been sent.
  - c. The date of the last revision.
  - d. The compliance status of the parcel.
10. Upon completion of the administrative process, issue and record a letter of compliance for each livestock facility and cropping practice, referenced to the appropriate tax parcel through the Chippewa County Track Index.

**C. DNR will:**

1. Co-sign Letter Types A and B in cases where it concurs with the County's findings.
2. Provide support to Chippewa County in explaining compliance determinations that DNR assisted in developing.

**Vla. Component 6A: Secure Funding and Technical Assistance**

**A. The parties agree:**

1. Previous commitments for cost-share funding have been made through cost-share agreements signed under the Duncan Creek Priority Watershed Project.
2. Section 281.16(3), Wis. Stats., and sections NR151.09(3)(c), and NR151.095(4)(d) prohibit the State or municipalities from requiring that "existing" practices and facilities, which were

not in compliance with the agricultural performance standards and prohibitions on the effective date of the rule, to come into compliance through State regulation or local ordinance unless public cost share funds are provided for eligible costs.

3. NR151.09(3) and NR151.095(4) identify compliance requirements for owners and operators of cropland practices and livestock facilities based on whether the practices and facilities determined to be “existing” or “new”, and whether cost sharing is required and made available to the landowner or operator.
4. NR151 defines cost share availability requirements for funding administered by DNR under 281.65, Stats. ATCP 50 defines cost-share availability from any other source. These requirements must be clearly understood to ensure that proper determinations of cost-share availability, are made by DNR and County staff.
5. Cost-share funds to pursue compliance are now available from a combination of public and private non-profit grant sources, including: the Duncan Creek Priority Watershed Project, the DATCP Soil and Water Management Program (SWRM), the DNR Targeted Runoff Management Program (TRM), USDA cost-share and land set-aside programs and nonprofit organizations.
6. Developing cost-share funding proposals and grant contracts from single or multiple grant sources, requires significant knowledge of multiple grant programs, administrative rules, and contracting requirements.

**B. Chippewa County will:**

1. In circumstances where a cost share contract in the Duncan Creek Priority Watershed has not been fully implemented and where nonpoint performance standards and prohibitions are currently met, offer the producer the option of pursuing the contract, as previously agreed to, or the option of amending the contract to remove conservation practices which are not necessary to achieve compliance. The County will remove practices only if consistent with the priority watershed plan.

*Note: The option for removing contracted procedures will not be extended to “critical sites”, previously identified by DNR as necessary to meet watershed plan pollution reduction goals.*

2. Through its fiscal policy and grants management strategy, reserve a portion of state cost-share funds available through the DATCP Land and Water grants program for applicants that participate in the Chippewa County Voluntary Farm Evaluation and Certification Program. These funds will be allocated where:
  - a. Croplands or livestock facilities that have not met the agricultural nonpoint standards and prohibitions since their effective dates; or
  - b. Agricultural nonpoint standards are now met and where additional conservation practices will achieve significant public water quality benefits, including circumstances where:
    - i. the pollutant source has no applicable standard, or where
    - ii. the existing nonpoint standards are not adequate to meet the State water quality standards or management objective for the water body.

3. Through its fiscal policy and grants management strategy, reserve a portion of state cost-share funding through the DATCP Land and Water grants program for cropland practices and livestock facilities that choose to not voluntarily come into compliance with standards and prohibitions, as determined through an evaluation conducted in response to a public complaint or a request submitted by DNR.
4. Within the limits of State staffing grants, apply for additional cost-share funds available through the DNR TRM grant program to provide offers of cost-share to achieve compliance with NR 151.
5. Convey to the responsible USDA agencies (NRCS and FSA) the County's preference to prioritize and allocate a portion of Federal cost share funds to applicants that participate in the Chippewa County Voluntary Farm Evaluation Program that do not, as yet, fully meet the State's agricultural nonpoint performance standards and prohibitions.
6. Within the limits of State staffing grants, pursue new sources of local, state and federal funds for applicants that participate in the Chippewa County Voluntary Farm Evaluation Program if required to implement performance standards and prohibitions.
7. Evaluate the availability of County staff to implement NR151.09 and NR151.095, and allocate effort based upon the availability of State staffing grants and/or direct reimbursement provided by DNR and/or DATCP for the purpose of implementing agricultural performance standards and prohibitions.
8. Evaluate and allocate County staff toward implementation of NR151.09 and NR151.095, based upon the availability of State staffing grants and/or direct reimbursement provided by DNR and/or DATCP for the explicit purpose of implementing agricultural performance standards and prohibitions through NR151.09 and NR151.095.
9. Within the limits of State staffing grants, make staffing commitments necessary to support the installation of conservation practices.

**C. DNR will:**

1. Assist Chippewa County in determining what constitutes an adequate offer of cost sharing under s. 281.65, Stats and chapters NR 153 and NR 154.
2. Establish procedures with DATCP to confirm availability of cost-share funding from sources other than s. 281.65.

**VIb. Component 6B: Option to Issue Non-Voluntary NR151 Notice of Cost-Share**

**A. Parties Agree:**

1. In nearly all circumstances, landowners will be willing and able to implement conservation practices on a voluntary basis as necessary to comply with performance standards and prohibitions. In some instances, a landowner may not be willing to do so.



2. Chapter NR 151.09 and NR 151.095 set forth notification requirements that must be met before DNR can initiate enforcement action under Ch. 281, Stats., for non-compliance with performance standards and prohibitions. This includes provision of a notification to the landowner at the time that cost sharing is made available, or in cases when cost share is not required, when the compliance achievement period starts.
3. Notification requirements and cost-share availability requirements vary depending upon the legal authority that is used to enforce the standards and the source of funding. These requirements are documented in Appendix A.
4. Developing and issuing notices of cost sharing under the non-voluntary NR151 option is a joint responsibility of Chippewa County and DNR.

**B. Chippewa County will:**

1. Within limits of State staffing grants, and with input from DNR regional staff, prepare draft landowner notifications under NR 151.09 (5-6) and NR 151.095 (6-7) using DNR templates (See Letter Types C and D, Appendix A).

*Note: This includes situations where an existing cost share contract in the Duncan Creek Priority Watershed has not been implemented to meet nonpoint performance standards and prohibitions and where DNR and County staff determine the site is a high priority for issuing the notice.*

2. Provide draft notices to DNR regional staff for completion and DNR signature.

**C. DNR will:**

1. Sign and issue notices (Appendix A, Letter Types C & D) to landowners under NR 151.09 and NR 151.095.

**VII. Component 7. Administer Funding and Technical Assistance/Re-evaluate Parcel**

**A. The parties agree:**

1. If public cost share funds are offered to install conservation practices, through either the voluntary or non-voluntary option, a cost share agreement must be developed and public funds must be accounted for.
2. Cost-share agreements have historically been developed by professional staff who have a working knowledge of administrative rules, contracting procedures, agronomy and agricultural engineering.
3. A “farm conservation planning process” has historically been used to:
  - a. Compile physical information which describes the production potential and limitations of agricultural land.
  - b. Document current management practices which are being used to manage the crop and livestock production.

- c. Inform and educate landowners of conservation practices which are available to meet conservation objectives.
  - d. Document the location and scheduled implementation of conservation practices as a basis for cost share contract development.
4. A site evaluation and engineering process has historically been used to:
- a. Inventory and evaluate sources of agricultural runoff and nonpoint pollution.
  - b. Identify management options and best management practices to control runoff.
  - c. Prepare cost estimates of the available management options as a basis for decision making and contracting.
  - d. Survey and design the selected management system.
  - e. Layout and supervise the construction of the runoff system.
  - f. Through post construction inspections, verify that the runoff system was constructed according to the design.
5. The successful completion of the conservation planning, contracting, and engineering process requires a broad range of skills and services in the fields of agronomy, engineering, and public administration.
6. The DNR, DATCP, and County have, through the Wisconsin Nonpoint Source Water Pollution Abatement Program and the Soil and Water Management Program, recruited, supported, and maintained a technical delivery staff with proven expertise in administering a nonpoint pollution abatement program for the purpose of meeting agricultural performance standards and prohibitions.

**B. The County will:**

- 1. Within the limits of state staffing grants, establish and administer a budget and accounting system to receive and disperse state funds administered by the County on behalf of the State.
- 2. Within the limits of state staffing grants, employ or contract professional staff for the purpose of developing and administering cost share contracts on behalf of state and federal agencies.

When administering state or local cost-share agreements, the agreement will stipulate (or will be accompanied by a separate stipulation agreement) that the affected cropland practices and livestock facilities will maintain or be brought into compliance with applicable performance standards and prohibitions, as enumerated in the compliance status report. These cost-share documents will be recorded.

The status of each cost-share agreement will be maintained as part of the geographic database and record keeping system described in Section V.B.6.

- 3. Within the limits of state staffing grants, employ or contract a certified agronomist or conservation planner, for the purpose of providing conservation planning services to landowners, or for the purpose of reviewing the adequacy of conservation plans prepared by private service providers or federal agency staff.

4. Within the limits of state staff grants, employ or contract a licensed engineer, for the purpose of providing engineering design services, assuring construction oversight and evaluating and certifying installation of conservation practices to meet the agricultural performance standards and prohibitions, or for the purpose of reviewing the adequacy of engineering designs, and evaluating and certifying installation of conservation practices through review of “as-built” surveys provided by third party service providers (private sector or USDA conservation delivery system).
5. In circumstances where conservation planning or engineering services are provided to the landowner as a reimbursable expense under the DNR TRM Program or USDA cost share programs account for conservation planning and engineering expenses and bill the landowner at a standardized hourly rate upon completion of the contracted practice.
6. Upon completion of best management practices implemented through the cost share agreement, conduct an onsite evaluation of the operation to document compliance with the agricultural nonpoint performance standards and prohibitions.
7. Provide to DNR a draft letter of satisfaction to be issued to the landowner (See Letter Type E, Appendix A). Record this compliance following procedures in Section IV and V of this agreement.
8. Within the limits of state staffing grants, conduct ongoing compliance monitoring through Operation and Management (O&M Plan) support.

**C. The DNR will:**

1. Provide direct reimbursement to the County for engineering services performed to design and install best management practices through the TRM grant program.
2. With DATCP, seek to secure sources of funding to reimburse the County for its administrative and technical services.
3. Within the limits of available funding, conduct program reviews to verify that cost share funding and conservation services have been administered in accordance with appropriate state administrative rules.
4. Sign and mail satisfaction letters to landowners.

**VIII. Component 8: Enforcement**

**A. The parties agree:**

1. DNR and Chippewa County will use voluntary means, to the extent practical, to achieve compliance with performance standards and prohibitions, but may use enforcement when necessary to meet requirements of ch. 281, Stats., and NR151.
2. Each party has independent authority to enforce standards and reserves the right to exercise that authority without permission of the other.

3. To be effective, the public and affected landowners must perceive enforcement as a necessary option, pursued jointly by the parties, after voluntary measures to achieve compliance have failed.
4. Chippewa County has authority to enforce the performance standards and prohibitions under s. 281.16, Stats., but has chosen not to do so at this time.
5. DNR has authority to enforce performance standards and prohibitions through a number of statutory options. These include, but are not limited to:
  - a. Referral by DNR to the Wisconsin Department of Justice to seek relief under s. 281.98, Wis. Stats.,
  - b. Use of enforcement procedures under NR 243 and s. 283.89, Stats., to obtain compliance with performance standards and prohibitions or to resolve a water quality problem.
  - c. Use of other state laws, including citation authority under s. 29.601, Wis. Stats.
6. To be effective, enforcement procedures must be well coordinated between DNR and Chippewa County, and must be supported by both parties.
7. NR 151.09 and NR 151.095 establish the procedures that must be followed as pre-requisites to enforcement when DNR funds are used or when DNR pursues enforcement under s. 281.98, Wis. Stats.
8. The start of formal enforcement procedures are recognized to begin with the issuance of a Notice of Violation. Grounds for issuing a Notice of Violation letter is non-compliance by the landowner or operator with the notice issued under NR 151.09(5), NR 151.09(6), NR 151.095(6), or NR 151.095(7) and Component 6 of this agreement.

**B. Chippewa County Will:**

1. Support DNR's lead role in enforcement.
2. Identify cases where landowners do not follow the requirements of their noncompliance notices and provide this information to the DNR.
3. Participate in DNR enforcement conferences.
4. Provide background information to DNR needed for WPDES permits or to develop referral packages to the Wisconsin Department of Justice.
5. Provide testimony, documents or other technical support for enforcement cases.
6. In circumstances where the County has issued permits or is pursuing legal actions under other authority, ensure that appropriate information concerning those permits or enforcement activity is transmitted to DNR.

**C. DNR will:**

1. Take the lead role in initiating enforcement action, including issuing notices of violation.
2. Ensure that appropriate information concerning enforcement activity by the Department is transmitted to the County.
3. Schedule and conduct enforcement conferences if appropriate.
4. If a point source discharge exists, issue a WPDES permit or take enforcement action under NR 243 and ch. 283, Stats., if consistent with regional and statewide permitting priorities.
5. Determine compliance with permits if consistent with regional and statewide compliance activities.
6. Prepare referral packages to Attorney General's Office if non-compliance continues and referral is approved by the DNR Secretary's Office.

**IX. Component 9. Ongoing Compliance Monitoring**

**A. The parties agree:**

1. NR151.09(3)(b) and NR151.095(4)(b) require that existing cropland practices and livestock facilities, which are in compliance on or after October 1, 2002, remain in compliance without the offer of cost share.
2. Ongoing agricultural operations are dynamic in nature and continually change in response to market forces, changes in technology, and changes in land ownership.
3. Periodic evaluations are of direct value to current owners and operators, as they make routine business decisions which affect their agricultural operation, including those related to capital investments, land rental, and land sales.
4. Routine compliance monitoring is of direct value to the general public as a way to verify that compliance is maintained..

**B. Chippewa County will:**

1. For those operations that have received a letter indicating compliance (Appendix A, Letter Type A, B or E), implement a system of routine compliance monitoring. The extent of monitoring will be directly proportional to the amount of State funding allocated specifically to support this effort.
2. Under the monitoring system:
  - a. Conduct an annual reporting and self-certification program for operations that have an active State cost share contract subject to a 10 year Operation and Maintenance Plan.
  - b. Conduct an annual educational mailing in association with the annual property tax billing

for operations that are in compliance, but no longer subject to provisions of an active operation and maintenance plan.

3. Assume a lead role in responding to public complaints following protocol for compliant response, procedures for site evaluation, and determinations as established in Sections 4 and 5 of this agreement.

**X. Component 10: Annual Reporting**

**A. The parties agree:**

1. Annual reports can be used track progress toward implementing the NR151 agricultural nonpoint performance standards and prohibitions.
2. The information contained in an annual report must be systematically collected and be readily available from the County's record-keeping system.
3. DNR will work with DATCP to collect information which can be compiled into an annual State-wide report to document the status of program implementation.
4. To assure that the appropriate information is gathered, the State agencies must define, in advance, what information each agency intends to request in order to monitor the status of program implementation, and the extent to which the standards have been applied

**B. Chippewa County will:**

1. By April 15 of each year, summarize and report to DNR information that summarizes the general compliance status of livestock facilities and cropland in the County. Information will be conveyed on reporting forms provided by DNR.

*Note: Starting in 2005, NR 151 performance standards/prohibitions reporting form will be combined with LWRM reporting form.*

2. The report will be augmented by a map that will show the cumulative location of cropland parcels and livestock operations which have been evaluated, and the associated compliance status of these lands and operations.

**C. DNR will:**

1. Develop an annual reporting form by which Counties will report the extent of confirmed compliance and the remaining workload to complete site evaluations to determine compliance.

*Note: Information in the annual report is anticipated to include the following, summarized by county, watershed and performance standard/prohibition: total number of fields and facilities (estimate); portion of total that has been assessed (estimate); number of fields and facilities assessed (actual); number of assessed fields and facilities that are in compliance (actual); portion of assessed fields and facilities that are in compliance (actual).*

2. Provide the form electronically to the County at least 2 months prior to the deadline for conveyance to DNR

3. Compile the County data from the report into a state-wide report to be presented to the Land and Water Conservation Board, DNR Board, Agricultural Board, Wisconsin Legislature, and other interested parties.

*Note: DNR intends to develop this report jointly with DATCP.*

#### Signatures

---

Dan Masterpole, County Conservationist  
Chippewa County Land Conservation Department

---

date

---

Chair  
Chippewa County Land Conservation Committee

---

date

---

John Paddock, Lower Chippewa Basin Leader  
Wisconsin Department of Natural Resources

---

date

---

Russ Rasmussen, Runoff Management Section Chief  
Wisconsin Department of Natural Resources

---

date